

108TH CONGRESS
1ST SESSION

H. R. 1389

To enhance the ability of first responders to respond to incidents of terrorism
and for certain other purposes.

IN THE HOUSE OF REPRESENTATIVES

MARCH 20, 2003

Mr. CROWLEY (for himself, Mr. FOSSELLA, Mr. BISHOP of New York, Mr. KING of New York, Mrs. MCCARTHY of New York, Mr. ENGEL, Mr. TOWNS, Mr. HOUGHTON, Mr. WEINER, Mrs. MALONEY, Mr. CAPUANO, Mr. OWENS, Mr. RANGEL, Mr. EMANUEL, Ms. WATERS, Mr. MEEKS of New York, Mr. HINCHEY, Mr. NADLER, Mr. BELL, and Mrs. LOWEY) introduced the following bill; which was referred to the Committee on Transportation and Infrastructure, and in addition to the Committees on Science, the Judiciary, and Select Homeland Security, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To enhance the ability of first responders to respond to
incidents of terrorism and for certain other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Homeland Emergency
5 Response Act of 2003”.

1 **SEC. 2. FINDINGS.**

2 Congress finds the following:

3 (1) First responders, which include local law
4 enforcement departments, fire departments, offices
5 coordinating emergency management, local health
6 departments and local public hospitals, are crucial
7 elements of anti-terror preparation and response.

8 (2) Local efforts include increased counter-ter-
9 rorism, intelligence, increased security at events and
10 venues of national and international significance.
11 These efforts supplement and enhance Federal ef-
12 forts.

13 (3) Local needs include training, personnel,
14 equipment, communication, security upgrades to fa-
15 cilities, and Federal assistance with personnel as
16 well as capital costs and expenses.

17 (4) The fiscal crisis at the local level is unprece-
18 dented since WWII and threatens to undermine the
19 ability of local governments to conduct their efforts
20 in the War against Terrorism.

21 (5) The Federal Government has a responsi-
22 bility to provide for the common defense and there-
23 fore to assist local governments in their counter-ter-
24 rorism efforts.

25 (6) Terrorists, according to the Al Queda man-
26 ual and by their actions, have shown they seek to in-

1 flict maximum casualties, to disrupt the national
2 economy, to disrupt the governmental leadership,
3 and that they will return to those targets where ear-
4 lier attacks have failed.

5 (7) When the criteria that the terrorists use is
6 applied, it is clear that the localities targeted on
7 September 11, 2001 as well as several other large
8 metropolitan areas continue to be at the greatest
9 risk of terrorist attack.

10 (8) While every community must have a well
11 prepared first responder and public health infra-
12 structure in place to cope with terrorist attacks, the
13 Nation's defensive efforts should also be focused on
14 where the greatest threats are.

15 (9) As the Nation builds up its defenses, the
16 Nation must also adequately defend the homeland
17 through the support of first responders.

18 (10) A new, long-term grant program by the
19 Federal Government needs to be established to en-
20 hance the ability of first responders to respond to in-
21 cidents of terrorism, including weapons of mass de-
22 struction, such as biological, chemical and nuclear
23 attacks to ensure the safety of all Americans.

1 **SEC. 3. FIRST RESPONDERS.**

2 Section 430(d) of the Homeland Security Act of 2002
3 is amended—

4 (1) in paragraph (7) by striking “and” at the
5 end;

6 (2) in paragraph (8) by striking the period and
7 inserting “; and”; and

8 (3) by adding at the end the following:

9 “(9) establish clear guidelines for Federal,
10 State, tribal, and local government terrorism pre-
11 paredness and response;

12 “(10) establish and coordinate an integrated ca-
13 pability for Federal, State, and local governments
14 and emergency responders to plan for and address
15 potential consequences of terrorism;

16 “(11) establish standards for a national, inter-
17 operable emergency communications and warning
18 system which allows for communications capability
19 between local and other first responders on all levels
20 of government;

21 “(12) evaluate equipment to be used by first re-
22 sponders, to respond to incidents of terrorism, in-
23 cluding incidents involving weapons of mass destruc-
24 tion; and

25 “(13) carry out such other related activities as
26 are approved by the Secretary.”.

1 **SEC. 4. PREPAREDNESS ASSISTANCE FOR FIRST RESPOND-**
2 **ERS.**

3 (a) IN GENERAL.—Section 430 of the Homeland Se-
4 curity Act of 2002 is amended by adding at the end the
5 following:

6 “(e) PROGRAM TO PROVIDE ASSISTANCE.—

7 “(1) IN GENERAL.—The Secretary shall estab-
8 lish a program to provide assistance to States and
9 certain local governments to enhance the ability of
10 State and local first responders to respond to inci-
11 dents of terrorism, including incidents involving
12 weapons of mass destruction.

13 “(2) FEDERAL SHARE.—The Federal share of
14 the cost of assistance under this subsection is as fol-
15 lows:

16 “(A) 1ST YEAR.—shall not exceed 100 per-
17 cent;

18 “(B) 2D YEAR.—shall not exceed 95 per-
19 cent;

20 “(C) 3D YEAR.—shall not exceed 90 per-
21 cent; and

22 “(D) 4TH YEAR.—shall not exceed 80 per-
23 cent.

24 “(3) FORMS OF ASSISTANCE.—

25 “(A) IN GENERAL.—Assistance provided
26 under paragraph (1) may consist of—

1 “(i) grants; and

2 “(ii) such other forms of assistance as
3 the Secretary determines to be appropriate.

4 “(B) USES OF ASSISTANCE.—Assistance
5 provided under this subsection shall be used—

6 “(i) to purchase, to the maximum ex-
7 tent practicable, interoperable equipment
8 that is necessary to respond to incidents of
9 terrorism, including incidents involving
10 weapons of mass destruction;

11 “(ii) to train first responders, con-
12 sistent with guidelines and standards de-
13 veloped by the Secretary;

14 “(iii) in consultation with the Sec-
15 retary, to develop, construct, or upgrade
16 terrorism preparedness training facilities
17 and other facilities dealing with emergency
18 preparedness;

19 “(iv) to develop, construct, or upgrade
20 emergency operating centers;

21 “(v) to develop preparedness and re-
22 sponse plans consistent with Federal,
23 State, and local strategies as determined
24 by the Secretary;

1 “(vi) to provide systems and equip-
2 ment to meet communication needs, such
3 as emergency notification systems, inter-
4 operable equipment, and secure commu-
5 nication equipment;

6 “(vii) to conduct exercises;

7 “(viii) to provide for the necessary
8 equipment needed by local first responders
9 to prepare for and prevent possible ter-
10 rorist attacks;

11 “(ix) to provide for personnel training
12 costs; and

13 “(x) to provide for personnel costs of
14 counterterrorism security and intelligence
15 activities;

16 “(xi) to enhance security at facilities;
17 and

18 “(xii) to carry out such other related
19 activities as are approved by the Secretary.

20 “(4) ALLOCATION OF FUNDS.—

21 “(A) IN GENERAL.—The Secretary shall
22 make available for each fiscal year—

23 “(i) $\frac{1}{3}$ of the total amount appro-
24 priated for this subsection to the 5 local
25 governments that the Secretary determines

1 (in consultation with the Director of the
2 Central Intelligence Committee, the Direc-
3 tor of the Federal Bureau of Investigation,
4 and the Secretary of Health and Human
5 Services) are at the greatest risk and vul-
6 nerability of a terrorist attack.

7 “(ii) the remaining $\frac{2}{3}$ of the total
8 amount appropriated for this subsection to
9 the 50 States as the Secretary determines
10 (in consultation with the Director of the
11 Central Intelligence Committee, the Direc-
12 tor of the Federal Bureau of Investigation,
13 and the Secretary of Health and Human
14 Services) are at the greatest risk and vul-
15 nerability of a terrorist attack.

16 “(B) DISTRUBTION OF FUNDS FOR 5
17 LOCAL GOVERNMENTS.—Of the amount made
18 available for the 5 local governments under sub-
19 paragraph (A)(i), the Secretary shall dis-
20 tribute—

21 “(i) $\frac{1}{2}$ in the ratio that the level of
22 risk of terrorist attack of each local gov-
23 ernment bears to the level of risk of ter-
24 rorist attack of all 5 such municipalities.

1 “(ii) $\frac{1}{4}$ in the ratio that the total pop-
2 ulation of each local government bears to
3 the total population of all 5 such munici-
4 palities.

5 “(iii) $\frac{1}{4}$ in the ratio that the number
6 of marquee landmarks in the jurisdiction
7 of each local government bears to the num-
8 ber of marquee landmarks in the jurisdic-
9 tion of all 5 such local governments.

10 “(C) DISTRIBUTION OF FUNDS TO
11 STATES.—Of the amount made available under
12 subparagraph (A)(ii), the Secretary shall dis-
13 tribute to States—

14 “(i) $\frac{1}{3}$ in the ratio that the level of
15 risk of terrorist attack of each State bears
16 to the level of risk of terrorist attack of all
17 States.

18 “(ii) $\frac{1}{3}$ in the ratio that the total pop-
19 ulation of each State bears to the total
20 population of all States.

21 “(iii) $\frac{1}{3}$ in the ratio that the number
22 of marquee landmarks in each State bears
23 to the number of marquee landmarks in all
24 States.

1 “(D) CONSTRUCTION.—Nothing in this
2 paragraph shall preclude a State from distrib-
3 uting funds to a local government that receives
4 funds under subparagraph (A)(i).

5 “(5) ADMINISTRATIVE EXPENSES.—

6 “(A) EXPENSES OF SECRETARY.—From
7 amounts made available under this subsection,
8 the Secretary may use to pay salaries and other
9 administrative expenses incurred in admin-
10 istering the program not more than the lesser
11 of—

12 “(i) 5 percent of the funds made
13 available to carry out this subsection for
14 the fiscal year; or

15 “(ii) for fiscal year 2004,
16 \$75,000,000; and

17 “(iii) for each of fiscal years 2005
18 through 2007, \$50,000,000.

19 “(B) STATE EXPENSES.—For each fiscal
20 year, not more than 10 percent of the funds re-
21 tained by a State after application of subsection
22 (e) may be used to pay salaries and other ad-
23 ministrative expenses incurred in administering
24 the program.

25 “(6) COORDINATION.—

1 “(A) STATE COORDINATION.—Each State
2 shall coordinate with local governments con-
3 cerning the use of assistance provided to local
4 governments under paragraph (5).

5 “(B) FEDERAL AGENCY COORDINATION.—
6 The Secretary shall, as necessary, coordinate
7 the provision of assistance under this section
8 with activities carried out by—

9 “(i) the Administrator of the United
10 States Fire Administration in connection
11 with the implementation by the Adminis-
12 trator of the assistance to firefighters
13 grant program established under section
14 33 of the Federal Fire Prevention and
15 Control Act of 1974 (15 U.S.C. 2229) (as
16 added by section 1701(a) of the Floyd D.
17 Spence National Defense Authorization
18 Act for Fiscal Year 2001 (114 Stat. 1654,
19 1654A-360));

20 “(ii) the Attorney General, in connec-
21 tion with the implementation of the Com-
22 munity Oriented Policing Services (COPS)
23 Program established under section 1701(a)
24 of the Omnibus Crime Control and Safe

1 Streets Act of 1968 (42 U.S.C.
2 3796dd(a)).

3 “(7) REPORTS.—

4 “(A) ANNUAL REPORT TO THE SEC-
5 RETARY.—Each of the 5 local governments se-
6 lected under paragraph (4)(A)(i) and each
7 State that receives assistance under this sub-
8 section, shall submit to the Secretary, not later
9 than 60 days after the end of each fiscal year,
10 a report regarding the use of the assistance in
11 the fiscal year.

12 “(B) EXERCISE AND REPORT TO CON-
13 GRESS.—Not later than 3 years after the date
14 of enactment of this subsection, a State shall—

15 “(i) conduct an exercise, or partici-
16 pate in a regional exercise, approved by the
17 Secretary, to measure the progress of the
18 State in enhancing the ability of State and
19 local first responders to respond to inci-
20 dents of terrorism, including incidents in-
21 volving weapons of mass destruction; and

22 “(ii) submit a report on the results of
23 the exercise to—

24 “(I) the Committees on the Judi-
25 ciary and the Committees on Appro-

1 priations of the House of Representa-
2 tives and the Senate; and

3 “(II) the Select Committee on
4 Homeland Security of the House of
5 Representatives.

6 “(8) DEFINITIONS.—In this subsection the fol-
7 lowing definitions apply:

8 “(A) WEAPON OF MASS DESTRUCTION.—
9 The term ‘weapon of mass destruction’ has the
10 meaning given the term in section 2302 of title
11 50, United States Code.”.

12 “(B) FIRST RESPONDERS.—The term ‘first
13 responder’ means—

14 “(i) fire, emergency medical service,
15 health service, law enforcement personnel,
16 and urban search and rescue forces; and

17 “(ii) such other personnel as are iden-
18 tified by the Secretary of Homeland Secu-
19 rity.

20 “(C) MARQUEE LANDMARKS.—The term
21 ‘marquee landmarks’ means recognizable land-
22 marks or structures such as skyscrapers,
23 bridges, tunnels, historic landmarks, locations
24 of international noteworthiness or other notable
25 landmarks that are associated with a given

1 community on a national scale. Additionally,
2 these also include major seaports and airports,
3 power plants, military installations, major
4 transportation lines such as subways, dams and
5 other structures associated with America

6 “(D) STATE.—The term ‘State’ means any
7 State of the United States or any instrumen-
8 tality thereof approved by the Governor; the
9 Commonwealth of Puerto Rico, the United
10 States Virgin Islands, American Samoa, Guam
11 and the Northern Mariana Islands.

12 “(E) TERRORISM.—The term ‘terrorism’
13 includes attacks with biological, chemical, or
14 nuclear weaponry.

15 “(9) AUTHORIZATION OF APPROPRIATIONS.—

16 “(A) IN GENERAL.—There are authorized
17 to be appropriated to carry out this sub-
18 section—

19 “(i) \$3,500,000,000 for fiscal year
20 2004;

21 “(ii) \$3,750,000,000 for each of fiscal
22 years 2005 through 2007; and

23 “(B) FUND TO SUPPLEMENT.—The funds
24 authorized under subparagraph (A) are to sup-
25 plement, not supplant, other Federal funding

1 programs for America's first responders or
2 HEROs including the Local Law Enforcement
3 Block Grant, State Criminal Alien Assistance
4 program, the Edward Byrne grant program,
5 and the Community Orientated Policing Pro-
6 gram (COPS).”.

7 **SEC. 5. FIREFIGHTER COUNTERTERRORISM PROGRAM.**

8 The Federal Fire Prevention and Control Act of 1974
9 (15 U.S.C. 2201 et seq.) is amended by adding at the end
10 the following new section:

11 **“SEC. 35. FIREFIGHTER COUNTERTERRORISM PROGRAM.**

12 “(a) GRANTS.—The Director shall provide grants for
13 counterterrorism activities of the fire departments in the
14 five localities of greatest vulnerability, as determined
15 under section 430(e)(4)(A)(i) of the Homeland Security
16 Act of 2002.

17 “(b) AUTHORIZATION OF APPROPRIATIONS.—There
18 are authorized to be appropriated to the Director for car-
19 rying out this section such sums as may be necessary for
20 each of the fiscal years 2004 through 2007.”.

21 **SEC. 6. USA PATRIOT ACT.**

22 (a) GRANTS.—Section 1014(c) of the Uniting and
23 Strengthening America by Providing Appropriate Tools
24 Required to Intercept and Obstruct Terrorism Act of 2001

1 (USA Patriot Act) (42 U.S.C. 3711) is amended by add-
2 ing the following:

3 “(4) Any amount above the minimum described
4 in paragraph (3) shall be allocated among the States
5 as follows—

6 “(A) $\frac{1}{2}$ in the ratio that the level of risk
7 of terrorist attack of each State bears to the
8 level of risk of terrorist attack of all States
9 based on an assessment by the Secretary of
10 Homeland Security (in consultation with the
11 Directors of the Federal Bureau of Investiga-
12 tion and the Central Intelligence Agency);

13 “(B) $\frac{1}{4}$ in the ratio that the total popu-
14 lation of each State, bears to the total popu-
15 lation of all States; and

16 “(C) $\frac{1}{4}$ in the ratio that the number of
17 marquee landmarks in each State, bears to the
18 number of marquee landmarks in all States.

19 (b) USE OF GRANT AMOUNTS.—Section 1014(b) is
20 amended to read as follows:

21 “(b) USE OF GRANT AMOUNTS.—Grants under this
22 section may be used to purchase necessary equipment, to
23 enhance security at facilities, to provide training (includ-
24 ing the personnel costs of the trainees), to support
25 counter-terrorism, intelligence, and security activities (in-

cluding personnel costs) and to provide technical assistance to State and local first responders.”.

(c) Section 1014 of Public Law 107–56 is amended by adding at the end the following new subsections:

“(d) GRANT DISTRIBUTION.—Each State receiving a grant under this section shall distribute not less than 75 percent of such grant amount (before reduction for any administrative costs of the State) to local jurisdictions within the State.

“(e) EXCEPTION.—Grants under this section shall not be subject to a maintenance of effort or matching requirement.”.

SEC. 7. PROTECTION OF HEALTH AND SAFETY OF FIRST RESPONDERS.

Subtitle B of title VI of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5197 et seq.) (as amended by section 5(a)) is amended by adding at the end the following:

“SEC. 631. PROTECTION OF HEALTH AND SAFETY OF FIRST RESPONDERS.

“(a) DEFINITIONS.—In this section:

“(1) FIRST RESPONDER.—The term ‘first responder’ means—

1 “(i) fire, emergency medical service,
2 health service, law enforcement personnel,
3 and urban search and rescue forces; and

4 “(ii) such other personnel as are iden-
5 tified by the Secretary of Homeland Secu-
6 rity.

7 “(2) HARMFUL SUBSTANCE.—The term ‘harm-
8 ful substance’ means a substance that the President
9 determines may be harmful to human health.

10 “(3) PROGRAM.—The term “program” means a
11 program described in subsection (b)(1).

12 “(b) PROGRAM.—

13 “(1) IN GENERAL.—If the President determines
14 that 1 or more harmful substances are being, or
15 have been, released in an area that the President
16 has declared to be a major disaster area under this
17 Act, the President shall carry out a program with
18 respect to the area for the protection, assessment,
19 monitoring, and study of the health and safety of
20 first responders.

21 “(2) ACTIVITIES.—A program shall include—

22 “(A) collection and analysis of environ-
23 mental and exposure data;

24 “(B) development and dissemination of
25 educational materials;

1 “(C) provision of information on releases
2 of a harmful substance;

3 “(D) identification of, performance of
4 baseline health assessments on, taking biological
5 samples from, and establishment of an exposure
6 registry of first responders exposed to a
7 harmful substance;

8 “(E) study of the long-term health impacts
9 of any exposures of first responders to a harmful
10 substance through epidemiological studies;
11 and

12 “(F) provision of assistance to participants
13 in registries and studies under subparagraphs
14 (D) and (E) in determining eligibility for health
15 coverage and identifying appropriate health
16 services.

17 “(3) PARTICIPATION IN REGISTRIES AND STUD-
18 IES.—

19 “(A) IN GENERAL.—Participation in any
20 registry or study under subparagraph (D) or
21 (E) of paragraph (2) shall be voluntary.

22 “(B) PROTECTION OF PRIVACY.—The
23 President shall take appropriate measures to
24 protect the privacy of any participant in a reg-
25 istry or study described in subparagraph (A).

1 “(4) COOPERATIVE AGREEMENTS.—The Presi-
2 dent may carry out a program through a cooperative
3 agreement with a medical or academic institution, or
4 a consortium of such institutions, that is—

5 “(A) located in close proximity to the
6 major disaster area with respect to which the
7 program is carried out; and

8 “(B) experienced in the area of environ-
9 mental or occupational health and safety, in-
10 cluding experience in—

11 “(i) conducting long-term epidemio-
12 logical studies;

13 “(ii) conducting long-term mental
14 health studies; and

15 “(iii) establishing and maintaining en-
16 vironmental exposure or disease registries.

17 “(c) this will authorize and fund the necessary med-
18 ical monitoring and treatment of the first responders at
19 Ground Zero from the attacks on New York City of Sep-
20 tember 11, 2001.

21 “(d) REPORTS AND RESPONSES TO STUDIES.—

22 “(1) REPORTS.—Not later than 1 year after the
23 date of completion of a study under subsection
24 (b)(2)(E), the President, or the medical or academic
25 institution or consortium of such institutions that

1 entered into the cooperative agreement under sub-
2 section (b)(4), shall submit to the Secretary, the
3 Secretary of Health and Human Services, the Sec-
4 retary of Labor, the Administrator of the Environ-
5 mental Protection Agency and the Majority and Mi-
6 nority Leaders of the House of Representatives and
7 the Senate a report on the study.

8 “(2) CHANGES IN PROCEDURES.—To protect
9 the health and safety of first responders, the Presi-
10 dent shall make such changes in procedures as the
11 President determines to be necessary based on the
12 findings of a report submitted under paragraph
13 (1).”.

○